



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,946	03/23/2001	James H. Adams	6382-39	8245

27885 7590 03/08/2006

FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP  
1100 SUPERIOR AVENUE, SEVENTH FLOOR  
CLEVELAND, OH 44114

EXAMINER

GORDON, STEPHEN T

ART UNIT	PAPER NUMBER
----------	--------------

3612

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/815,946		ADAMS, JAMES H.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Stephen Gordon		3612	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5, 6, 8 and 18 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 8 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5 and 18 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2001 and 31 October 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____  | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Newly submitted/amended claims 6 and 8 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: see detailed requirement below.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 6 and 8 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-3,5, and 18, drawn to a combination cargo trailer mounting track and hook anchor assembly, classified in class 410, subclass 104.
- II. Claims 6-8 as newly amended, drawn to a hook receiver, classified in class 24, subclass 265CD.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because at least first and second retaining

Art Unit: 3612

member leg members are not required. The subcombination has separate utility such as use as a tie-down securement on a stationary boat dock.

4. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

5. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. Applicant should additionally note, new claim 6 as amended is fairly restrictable from the currently presented claim 1 as well as the "original" claim 1 as acted on in the first office action on the merits of 6-1-05. Additionally, new amended claim 6 is sufficiently divergent from "original" claim 6 as acted on in the 6-1-05 paper so as to warrant the election by original presentation requirement. Note, original claim 6 would define a combination device including a channel. New amended claim 6 defines no channel per se (only some of the walls) and further includes detail of movable retainer leg members. Moreover, while new claim 6 may contain some similar elements to those previously examined, the newly amended claim 6 defines different combinations of elements not previously considered.

7. Finally, applicant should note, while an action on the merits per se for newly presented claim 6 is not presented herein, it is noted that the last section is very confusing as a "retention channel" as such is not previously defined or recited in the claim. It would appear that even if claim 6 were considered on the merits, in view of the

Art Unit: 3612

confusing language as covered under section 112-second paragraph, it may not be possible to apply the prior art to the claim in deciding patentability without disregarding portions of the express wording of the claim and thus resorting to speculation and conjecture as to the particular invention defined therein (note also Ex parte Lyell, 17 USPQ2d 1548,1552).

8. The drawings filed 10-31-02 and 7-24-01 are objected to as being informal. New corrected/formal drawings in compliance with 37 CFR 1.121(d) are required in this application because the red-lined approved proposed amendments of 10-31-02 have not been incorporated formally into the 7-24-01 drawings. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings.

9. Claims 1-3, 5, and 18 are allowed.

10. Applicant's arguments with respect to amended claims 6+ have been considered but are moot in view of the new ground(s) for restriction.

11. Applicant's amendment necessitated the new ground(s) of restriction presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

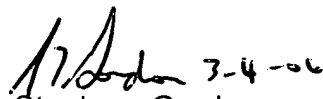
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 3612

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (571) 272-6661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Stephen Gordon  
Primary Examiner  
Art Unit 3612

stg